

**NEBRASKA LEGAL SERVICES
ACCESSLINE
ADVICE AND QUESTIONS**

ADV-Adult Guardianships

I'm sorry but we don't do adult guardianships. I would suggest you contact Adult Protective Services at 1-800-652-1999. I would also caution you that in order to obtain a guardianship over an adult, you will need to show the court that the person is incompetent. You can evidence this via the person's doctor.

ADV-Bankruptcy-Judgment Proof

I spoke to the attorney and at this time you are Judgment Proof. What that means is that if a creditor were to sue you for a debt, there is nothing that is garnishable. If income is exempt from garnishment such as SSDI, Unemployment, etc, advise caller not to commingle. If multiple sources of income, advise caller not to commingle. You do not have equity in your home that is over \$12,500.00. You do not have any savings, IRA's or 401(K)'s that can be garnished. You do not have equity in your vehicle over \$2,400.00. At this point, there is nothing that a creditor can attempt to take from you. Because of that, this is not a bankruptcy that NLS would be able to do. If you would like to file regardless of the fact that you are judgment proof, there is another legal organization that may be able to assist you. It is called the Volunteer Lawyers Project (VLP) 1-800-742-3005. They are able to take applications for bankruptcies even if you are judgment proof. There is a \$200.00 filing fee that you would most likely need to pay if you were to file. Sending caller a bankruptcy handbook.

ADV-Conflict

I looked up the names in the cases and talked to the attorney. There is a conflict of interest in taking this case. Basically what that means is that either the opposing party has been a client of ours so we can't take a case against them or someone has called in and gotten advice or assistance against you and we can't take a case for you. What I can do is give you the number to the VLP (Volunteer Lawyers Project) 1-800-742-3005 for assistance.

It is a similar service; they have lawyers that volunteer their time for free services based on income they can try to place your case with a private attorney.

ADV-Guardian Changed Adult/Kid

To have the guardian (or payee) changed you will need to show that all relevant parties agree, and/or that it is no longer in the person who the guardianship is over best interest that the appointed guardian/payee no

longer continue. This can be shown by demonstrating to the court that the guardian/payee is not fulfilling their duties and looking out for the best interest of the person that they are responsible for.

ADV-Guardianship Vacated/Adult

To have a guardianship vacated over an adult you will need to provide proof to the court that the circumstances that existed when the guardianship was put into place no longer exist, that the adult is now competent. This can be shown via your doctor or some other health care provider and by your actions.

ADV-Guardianship Vacated/Kids

To have a guardianship vacated you will need to provide proof to the court that the circumstances that existed when the guardianship was put into place no longer exist, that you are now in a position to provide for your child/ren, and that it is now in the best interest of the child/ren for the guardianship to be vacated.

ADV-Name Change

We don't do name changes. Gave caller VLP phone number (1-800-742-3005). Advised caller that there is a \$140.00 filing fee that they are responsible for. Also advised caller that he/she will need to prove that it is in their best interest to have their name changed.

ADV-Pro Se Divorce Clinic

Advised caller we will forward the application to our Pro Se Divorce Clinic. Advised caller how the Pro Se Clinic operates. Informed caller because the Pro Se Clinic cannot assist if issues such as custody, domestic violence or property are/or become apparent, he/she will not be able to proceed Pro Se if such issue(s) arise(s). Sending caller a Divorce handbook and a Pro Se Clinic pamphlet.

ADV-SSDI

I'm sorry but we won't be able to help you at this time. This is because there are attorney fees that can be recovered. As such, I have to ask you to contact three private attorneys and see if they will take your case. If all three turn you down, please call us back, and at that time we'll see if we can handle the case. I would like to share a little advice, though. Part of your problem of not getting your SSDI may be that your doctor has not used the "magic words" which are necessary to be found disabled. Social Security is looking for evidence that your disability makes it unable for you to work, and that your impairment will last longer than 12 months. You might look either at your medical records or ask your doctor if he/she can include a statement to this effect.

ADV-SSI

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All Intakes-Tax Income

1. Did you file for earned income credit, within the past three years, but did not receive it or did not receive the full amount?

2. Did you anticipate getting an income tax refund, for any of the past three years, but did not receive the expected amount?

3. Are you being audited by the IRS?

4. Do you owe money to the IRS?

5. (Ask between January 1 and April 15) Did you use a paid tax preparer to file your most recent tax return?

If so, did you get a Refund Anticipation Loan?

6. Are you aware of the free tax preparation, including free e-file, available through the VITA sites set up by the IRS and also at the IRS offices?

Bankruptcy

1. Is their income garnishable (above \$154.50/wk after taxes)?
Has it already been garnished?

2. Do you have any other income such as 401K, child support, etc.?

3. Have you been sued by any creditors, when, case no., hearing date, answered?

4. What is the total amount of your debt?

Kind of debt?

Are any ongoing medical needs (might want to wait to file to get them all in the bankruptcy)?

5. Are you married?

Filing together?

6. Has anything been repossessed?

7. Did part of your debt come from things that you bought on payment plans?

Are you still making any of these?

8. How long have you lived in the state of Nebraska (must be at least 6 months)?

9. Do you own your home?

What is the equity in the home?

10. Do you own a vehicle?

What is it worth?

11. Is personal property worth less than \$1,500.00 (if sold in a yard sale)?

12. Have you ever filed for bankruptcy?

If so, when?

Child Support

1. Is there an order for support yet?

Docket #:

2. If not, has paternity been established?

3. Who is paying the support?

4. Why is order too high/too low?

Has it been 6 months since this order?

What has changed since the order?

5. Who are kids living with?

6. What is a good time to call?

7. Advised call to contact local office in a week.

Custody or Guardianship Check

1. Names of the children involved:

2. What is your relationship to the children - parent/grandparent, etc.?

3. Where are the children living and with whom? For how long?

4. How long have the children been living in the state of Nebraska?

5. Has there been any physical abuse in the relationship?

6. Has paternity been established by the court? Born during marriage?
7. Name on Birth Certificate?
Acknowledgment of paternity signed?
8. Is there a child support order?
9. Has there been a divorce between the parents?
Custody order?
Docket #:
10. What has changed since that custody order?
11. Why do you think that the other parent/person is unfit to have custody?
What is the risk to the child?
Or, need guardianship to get benefits for child?
12. What would the other parent/person say bad about you having the child (ren)?
13. Is CPS involved with the child (ren)?
14. Good time to call?
15. Advised caller to contact local office in a week.

Divorce

1. Have you or your spouse filed for divorce yet?
When, what county, docket #, spouse's atty?
If served, when were you served?
2. Have you lived in NE at least one year?
3. Are there any hearings or deadlines coming up in the case?
4. How long have you been married?
5. What is the date that you were married?
6. How long have you been separated?
7. What is the date that you were separated?
8. Any domestic violence/abuse in the relationship?
How recent/type of abuse (for PAI counties)?

Abuse toward the children?

9. Name and DOB of children of the marriage?
Where are they living and for how long?
If they are with the other spouse or foster care, why?
10. Will custody be an issue/threats to custody?
Is spouse visiting the children/not returning kids from visits?
11. Any property issues?
12. What bad things will the other parent say about you regarding custody?
13. What bad things would you say about the other parent regarding custody?
14. For PAI counties: what are your living arrangements, family or friends' support ability to have kids with you?
15. Good time to call?
16. Advised caller to contact local office (or PBI atty) in week.

Guardianship Clinic

1. Is no one contesting the action? (If in Douglas Co. refer to Pro Se Clinic)
2. Advise caller that there is a \$10.00 fee to cover forms, copy costs, notary seals.
3. What is the correct and complete spelling of the child/ren name(s) that you are applying for?
4. What is the child/ren(s) date of birth?
5. Complete name and address (last known address) of all parties who have a possible "Claim" to this child/ren. (Examples, mom, dad, grandparents, aunts, uncles or any other adult who cares for the child/ren. These all should be listed as adverse).
6. Please tell clients that the court will not give them a guardianship if they do not at least attempt to give legal notice to parents of the child/ren.

7. Advised caller that the clinics are held the 3rd Wednesday of each month at 12:45 pm in the 4th floor conference room. What meeting do you plan on attending? (Make a referral to Elaine)

LL/T - Evictions

1. Renting private or public (housing authority, Section 8) housing?
(Does the government pay part of this rent?)
2. Are you renting a house, apartment, duplex or mobile home?
3. Did you sign a lease?
4. What date did you sign the lease?
5. Who is on it?
6. What is the term?
7. Behind on rent?
8. When was the last time you paid rent?
9. How much? Do you have receipts or witnesses for payments?
10. Have you received a notice or letter from your landlord?
11. What date did you receive the notice or letter from your landlord?
12. What does it say 30 day or 3 day notice?
13. If a 3 day, did you try to pay during the 3 days?
If so, what date did you pay rent?
14. Do you have a receipt or witnesses?
15. Have you received papers from the court?
16. What date did you receive these papers?
17. Is it a summons for restitution of premises?
18. Is there a hearing date?
If so, when?

19. Is it a lawsuit for damages or past rent?
20. Have you been to court already?
If so, when?
21. Have you been locked out by the landlord?
If so, when?
22. Did the constable or sheriff come out or someone else?
If so, when?
23. Do you have your property back?
If so, when did you get your property back?
24. Did the landlord give you a notice as to where your property was
being stored?
25. When did you receive this notice?
26. Good time to call?
27. Advised caller to contact local office in a week?

LL/T Security Deposit

1. Renting private or public (OHA/Section 8) housing?
2. Does the government pay part of your rent?
3. Are you renting a house, apartment, duplex, or mobile home?
4. Did you sign a lease?
5. What date did you sign the lease?
6. When does the lease expire?
7. Others living with you/on the lease?
8. Are you trying to get your security deposit back?
9. When did you move out?
10. Did you request it in writing?
11. Have certified mail receipt?

12. Do you have any proof of the condition of the place?
13. Does the landlord have any proof of the condition of the place?
14. Good time to call?
15. Advised caller to contact local office in a week.

Landlord Tenant - Repairs

1. Are you renting private or public (housing authority/Section 8) housing?
2. Does the government pay part of your rent?
3. Are you renting a house, apartment, duplex, mobile home?
4. Did you sign a lease?
5. What date did you sign the lease?
6. Who is on it?
7. What are the terms?
8. Are you trying to get the landlord to make repairs?
If so, what kind, for how long?
9. Have you sent the landlord a request to fix in writing?
10. Was this done verbally?
11. Are you without heat, hot & cold running water, electricity, or gas?
12. Is it broken or did the utility company shut it off for nonpayment?
13. Whose name is the bill in?
14. What does the lease require?
15. Do you want to stay at the property?
16. Do you want to move?
17. Good time to call?

18. Advised caller to contact local office in a week?

Medicaid/Medicare

Medicaid is a state (NDHHS) benefit program. Medicare is a federal (SSA) benefit program. Some people are eligible for either, both or none of the programs.

1. Does your situation involve your eligibility for Medicaid or Medicare, or does it involve your eligibility for specific medical services from either of the programs?

2. How were you notified that you either were not eligible for either of the programs, or that they would not cover the medical service?

3. If this was in writing, what was the date of the notice or other written form of notification?

4. Do you have a copy of that notice?

5. If this was done orally, who told you this information, and when did the conversation occur?

6. Who is the person who told you?

7. What was the reason given for your ineligibility for the program or service?

8. Have you appealed that decision?

9. When/How have you appealed that decision?

10. Has any type of hearing or conference been scheduled about this issue?

11. What is the date/time of the hearing/conference?

Native American

1. Are you, your spouse or your children enrolled members of the Omaha, Winnebago or Ponca Tribes?

2. What is your tribe affiliation?

3. Do you live on a reservation?

4. Do you live in the cities of Lindee, Santee, Niobrara, Winnebago, Thurston, Emerson, Walthill or Macy?

5. Does the matter about which you are calling involve the Ponca Housing Authority?
6. Does the matter about which you are calling involve a tribal company?
(company owned by a tribe)
7. Does the matter about which you are calling involve trust land?
8. Does the matter about which you are calling involve a dispute over foster care?

If any of these questions are answered yes, complete the Intake then refer the matter to the Walthill office [go to the CSR screen and: (a) assign it to the Walthill office; (b) change its status to pending acceptance; (c) change handler to not specified; and make sure there is no "closed" date entered.]

Pro Se Divorce Clinic

1. Has either party been a member of the armed forces of the US or its allies, including reserves?
2. Has Child Protective Services ever been involved?
If so, include details and outcome.
3. Have they reached an agreement in property/debt division?
4. Has there been a child/ren born after the couple has separated that's not husband's child/ren?
If so, has paternity been legally established?
5. Are you currently pregnant? ** If you are pregnant then LSC will not be able to do the Pro Se Clinic until after the child is born. You may recontact the AL after the child is born. It does not matter who the father is.
6. Are yours or your husband's rights to the children going to be changed? For example, are any of the kids being adopted? ** After adoption is final caller will need to provide a copy of the adoption decree.
7. Have either of you relinquish your rights? ** We will need a copy of the relinquishment.

Replevin Checklist

1. What property are you trying to get back?

Necessities of life, like clothes, medicine, etc.?

2. Value of the property (over small claims/\$2,400)?
Do you have any receipts to establish the value?
3. Who has your property?
4. Where is it?
5. Why do they have it?
6. Have you tried to get it back?
7. Make a list of the property and the value of each piece.

SSI/SSDI/SS

1. Have you applied for SSI, or SSDI benefits?
2. When did you apply?
3. Which office, in what city have you been dealing with?
4. What date (s) were you denied benefits?
5. If you would have won, how much did they say you'd get?
(As of 1/1/02, over \$545 is likely SSDI for a single person, over \$871 for a couple.)
6. If denied, have you filled out the papers for an appeal?
DO THIS RIGHT AWAY!
7. Do you have a hearing date right away?
8. If benefits were terminated, what is the date on the Notice of Termination?
9. Have you appealed the termination?
10. Did you go back to work?
11. How old are you?
12. What is the highest grade you finished in school?
13. How long since you worked?

14. What kind of work did you do?
15. What are your medical problems/disabilities?
16. Did you received an overpayment notice, when?
17. When were the overpayments made?
18. Why do you disagree about the overpayments?
19. Were you working at the time?
20. Good time to call?
21. Advised caller to contact local office in a week.

Tax Income Intakes

1. Do you have questions about tax return preparation?
2. Is it about:
 - A. Free assistance with filing?
 - B. Filing status, due to a change in martial situation?
 - C. Eligibility for tax benefits, especially when there are children involved?
 - D. How much do you have to earn to be required to file a return?
3. Do you have questions about a return?
4. Is it about:
 - A. Not receiving the refund one expected?
 - B. Because of an audit?
 - C. Because refund withheld for spouse's non-marital debt?
 - D. Because of a mistake in the tax return?
 - E. Refund affecting one's eligibility for public benefits?
5. Have you received notices from the IRS?
 - A. About an audit?
 - B. About a tax debt?
 - C. About a collection action?
 - D. About a lien or levy?
6. Is this about Collection Actions?
7. Is this about Employer problems?
 - A. No W-2?
 - B. Employer not withholding taxes?

C. Employer says employee is an independent contractor?

8. Do you need help filing an amended term?

9. Do you need help Filing a past due return?

10. Do you need help filing taxes since you don't have a Social Security Number/how to get an ITIN (individual taxpayer identification number)?

11. Do you want to know how to get Advanced Earned Income Tax Credit?

If any of these questions are answered YES, ask the following:

1. What is the stated deadline to respond to a notice?

2. Which tax year(s) is/are involved?

3. What language does the applicant speak?

4. Can the applicant read and in what language(s)?

5. Is the applicant disabled-is there a mental or emotional handicap?

6. Are there marital issues at the heart of the matter and was there domestic violence in the relationship?

7. What involvement has the applicant had with the IRS with regard to the matter (did they cooperate with an examination, have they worked on negotiations, did they go to court, is there an appointment date or court date)?

Unemployment

1. Have you applied for unemployment benefits, or has your unemployment benefits been stopped?

2. Did you receive a written notice from unemployment/Workforce Development that you have been disqualified from receiving benefits for a certain period of time?

3. What was the date of this notice?

4. What reason was given for disqualification? (Voluntary quit without good cause, termination for misconduct/gross misconduct, unavailable for work, inadequate job search, etc.)

5. Did you appeal that decision? (Have 20 days to file the appropriate request for a hearing.)
6. When did you file the appeal?
7. Has a hearing been scheduled?
8. If it has, when and where is the hearing?
9. How long had you been employed by the employer?
10. Who was your supervisor?
11. What were the circumstances of the loss of your job?
12. Are there potential witnesses would, could support your position?
13. Who are they?
14. If you already have had a hearing and received a decision from the Appeal Tribunal, what is the date of that decision?
15. What was the Appeal Tribunal's decision?
16. Do you still have a copy of the decision?
17. Have you filed an appeal in District Court? (30 days from date of the decision to file for district court review.)

VAWA

Reasons victim/survivors were not served or were partially served.
(Indicate all that apply)

Program reached capacity.

Program unable to provide service due to limited resources/priority-setting.

Need not documented.

Did not meet eligibility requirements.

Victim/survivor declined services.

Services not appropriate for victim/survivor.

Transportation problems.

Inadequate services for victim/survivor with substance abuse problems.

Inadequate services for victim/survivor with mental health problems.

Inadequate language capacity (including signing).

Geographic isolation of victim/survivor.

Conflict of interest.
Other (specify).

Other demographics

People with disabilities.
People with limited English proficiency.
People who are immigrants/refugee's/asylum seekers.
People who live in rural areas.

Relationship to offenders (Number of victim/survivors) Domestic Violence

Current or former spouse or cohabitating intimate partner.
Other family members (sibling, grandparents, etc)
Dating relationship.
Acquaintance (friend,neighbor,co-worker,schoolmate, etc.)
Stranger
Relationship Unknown.
Other (specify).

Legal outcomes (Insufficient merit / victim or survivor withdrew / Other result specify)

Protection orders (temporary,final,enforcement of existing PO).
Divorce.
Custody/visitation.
Establishment of Paternity.
Child/spousal support.
Other Family law matters.
Consumer Finance (credit debt,bankruptcy,tax, etc).
Employment
Income maintenance (TANF, disability,food stamps,unemployment, etc).
Housing.
Immigration.
Other (specify).
Other (specify).